

Introduced by Senator Allen

February 27, 2015

An act to amend Section 1947.8 of the Civil Code, relating to tenancy.

LEGISLATIVE COUNSEL'S DIGEST

SB 775, as amended, Allen. Tenancy: ~~deposits; rent control; certification.~~

Existing law regulates the terms and conditions of residential tenancies. ~~Existing law requires a landlord or his or her agent to allow a tenant to pay rent or a security deposit by at least one form of payment that is neither cash nor electronic funds transfer, except as specified.~~ Existing law, the Costa-Hawkins Rental Housing Act, prescribes state-wide limits on the application of local rent control with regard to certain properties, including those that have a certificate of occupancy issued after February 1, 1995. Existing law requires a local ordinance or charter controlling residential rent prices that requires registration of rents to provide for the certification of permissible rent levels and prescribes a process in this regard, including a requirement that, upon the request, a local agency provide a landlord and a tenant with a certificate reflecting the permissible rent levels of the rental unit. Existing law provides that the permissible rent levels reflected in the certificate are, in the absence of intentional misrepresentation or fraud, binding and conclusive upon the local agency unless the determination of the permissible rent levels is appealed.

This bill would ~~state the intent of the Legislature to enact legislation that would clarify when a landlord or his or her agent agrees that a tenant's payment for rent or deposit for security is accepted or rejected.~~

specify that the certification provisions described above, on and after January 1, 2016, do not apply to tenancies commencing for which the owner of residential property may establish the initial rent under the Costa-Hawkins Rental Housing Act, as specified.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 1947.8 of the Civil Code is amended to*
2 *read:*

3 1947.8. (a) If an ordinance or charter controls or establishes
4 a system of controls on the price at which residential rental units
5 may be offered for rent or lease and requires the registration of
6 rents, the ordinance or charter, or any regulation adopted pursuant
7 thereto, shall provide for the establishment and certification of
8 permissible rent levels for the registered rental units, and any
9 changes thereafter to those rent levels, by the local agency as
10 provided in this section.

11 (b) If the ordinance, charter, or regulation is in effect on January
12 1, 1987, the ordinance, charter, or regulation shall provide for the
13 establishment and certification of permissible rent levels on or
14 before January 1, 1988, including completion of all appeals and
15 administrative proceedings connected therewith. After July 1,
16 1990, no local agency may maintain any action to recover excess
17 rent against any property owner who has registered the unit with
18 the local agency within the time limits set forth in this section if
19 the initial certification of permissible rent levels affecting that
20 particular property has not been completed, unless the delay is
21 willfully and intentionally caused by the property owner or is a
22 result of court proceedings or further administrative proceedings
23 ordered by a court. If the ordinance, charter, or regulation is
24 adopted on or after January 1, 1987, the ordinance, charter, or
25 regulation shall provide for the establishment and certification of
26 permissible rent levels within one year after it is adopted, including
27 completion of all appeals and administrative proceedings connected
28 therewith. Upon the request of the landlord or the tenant, the local
29 agency shall provide the landlord and the tenant with a certificate
30 or other documentation reflecting the permissible rent levels of
31 the rental unit. A landlord may request a certificate of permissible

1 rent levels for rental units which have a base rent established, but
2 which are vacant and not exempt from registration under this
3 section. The landlord or the tenant may appeal the determination
4 of the permissible rent levels reflected in the certificate. The
5 permissible rent levels reflected in the certificate or other
6 documentation shall, in the absence of intentional misrepresentation
7 or fraud, be binding and conclusive upon the local agency unless
8 the determination of the permissible rent levels is being appealed.

9 (c) After the establishment and certification of permissible rent
10 levels under subdivision (b), the local agency shall, upon the
11 request of the landlord or the tenant, provide the landlord and the
12 tenant with a certificate of the permissible rent levels of the rental
13 unit. The certificate shall be issued within five business days from
14 the date of request by the landlord or the tenant. The permissible
15 rent levels reflected in the certificate shall, in the absence of
16 intentional misrepresentation or fraud, be binding and conclusive
17 upon the local agency unless the determination of the permissible
18 rent levels is being appealed. The landlord or the tenant may appeal
19 the determination of the permissible rent levels reflected in the
20 certificate. Any appeal of a determination of permissible rent levels
21 as reflected in the certificate, other than an appeal made pursuant
22 to subdivision (b), shall be filed with the local agency within 15
23 days from issuance of the certificate. The local agency shall notify,
24 in writing, the landlord and the tenant of its decision within 60
25 days following the filing of the appeal.

26 (d) The local agency may charge the person to whom a
27 certificate is issued a fee in the amount necessary to cover the
28 reasonable costs incurred by the local agency in issuing the
29 certificate.

30 (e) The absence of a certification of permissible rent levels shall
31 not impair, restrict, abridge, or otherwise interfere with either of
32 the following:

- 33 (1) A judicial or administrative hearing.
34 (2) Any matter in connection with a conveyance of an interest
35 in property.

36 (f) The record of permissible rent levels is a public record for
37 purposes of the California Public Records Act, Chapter 3.5
38 (commencing with Section 6250) of Division 7 of Title 1 of the
39 Government Code.

1 (g) Any notice specifying the rents applicable to residential
2 rental units which is given by an owner to a public entity or tenant
3 in order to comply with Chapter 12.75 (commencing with Section
4 7060) of Division 7 of Title 1 of the Government Code shall not
5 be considered a registration of rents for purposes of this section.

6 (h) “Local agency,” as used in this section, means the public
7 entity responsible for the implementation of the ordinance, charter,
8 or regulation.

9 (i) Nothing in this section shall be construed to grant construed:

10 (1) *To grant* to any public entity any power which it does not
11 possess independent of this section to control or establish a system
12 of control on the price at which accommodations may be offered
13 for rent or lease, or to diminish any such power which that public
14 entity may possess, except as specifically provided in this section.

15 (2) *On and after January 1, 2016, to apply to tenancies*
16 *commencing on or after January 1, 1999, for which the owner of*
17 *residential property may establish the initial rent under Chapter*
18 *2.7 (commencing with Section 1954.50).*

19 ~~SECTION 1. It is the intent of the Legislature to enact~~
20 ~~legislation that would clarify when a landlord or his or her agent~~
21 ~~agrees that a tenant’s payment for rent or deposit for security is~~
22 ~~accepted or rejected.~~